

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
La Salle Institute	)	File No. SLD-208293
Troy, New York	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: March 31, 2003**

**Released: April 2, 2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by La Salle Institute (La Salle), Troy, New York.<sup>1</sup> La Salle requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> For the reasons set forth below, we deny the Request for Review.

2. In its decision, SLD denied funding for Funding Request Number 0000483552 because it contained more than 30 percent ineligible items.<sup>3</sup> In fact, SLD determined that more than 50 percent of that particular funding request was ineligible.<sup>4</sup> La Salle argues that SLD should be reversed because 1) it submitted the request in ignorance; 2) it anticipated and therefore needs funding from SLD; and 3) it mixed ineligible and eligible items to get a better

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<sup>1</sup> Letter from William P. Maloney III, La Salle Institute, to Federal Communications Commission, filed March 15, 2002 (Request for Review).

<sup>2</sup> *Id.*

<sup>3</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to William P. Maloney III, La Salle Institute, dated April 27, 2001 (Funding Commitment Decision Letter).

<sup>4</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to William P. Maloney III, La Salle Institute, dated Sept. 12, 2001 (Administrator's Decision on Appeal).

discount from the vendor.<sup>5</sup> However, we find that SLD's decision is consistent with our precedent and affirm substantially for the reasons stated by SLD.<sup>6</sup>

3. Further, construing La Salle's argument as a request for a waiver of the requirement that applicants are responsible for separating out ineligible costs, we find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>7</sup> La Salle's reasons of misunderstanding and need for the funding are not a special circumstance warranting a waiver.<sup>8</sup> Therefore, we affirm SLD and deny the Request for Review.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by La Salle Institute, Troy, New York on March 15, 2002 IS DENIED.

#### FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>5</sup> Request for Review.

<sup>6</sup> See *Request for Review by Bloomfield Community County Schools*, File No. 180840, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 14801 (Com. Car. Bur. 2001) (discussing program procedures for denying funding requests if percentage of ineligible items is too high); *Request for Review by Cheney Public Schools*, File No. 142969, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 5192 (Com. Car. Bur. 2001) (applicants shall not be permitted to amend completed Forms 471 to remove ineligible service requests after the filing window has closed); see also SLD Web Site, Eligible Services List, 23, 26-27 (Oct. 18, 2002) (specifically noting that printers, personal computers, and some software are not eligible for discounts) (the document is accessible through a PDF link at <<http://www.sl.universalservice.org/reference/eligible.asp>>).

<sup>7</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*.

<sup>8</sup> See *Request for Waiver by art in context*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc. File No. SLD-262426, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 5087 (Com. Car. Bur. 2001) (noting misunderstanding of the rules is not sufficient justification for the waiver standard); see also *Request for Review of the Decision of the Universal Service Administrator by Mastermind Internet Services, Inc.*, Federal State Joint Board on Universal Service, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4035 (2000) ("While enforcement of these requirements has a harsh consequence for these particular applicants, the underlying policy ... is critical to the integrity of the program.").